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Congress of the United States
House of Representatives
Committee on Appropriations
Washington, DC 20515-6015

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WILLIAM B. INGLEE
TELEPHONE:
(202) 225-2771

May 31, 2012

Maj. Gen. (Ret.) Charles F. Bolden, Jr.
Administrator
National Aeronautics and Space Administration
Washington, DC 20546

Dear Administrator Bolden:

As you know, I have been deeply troubled by NASA's goals for and management of the Commercial Crew Program (CCP) over the last two years. The report accompanying H.R. 5326 expressed a number of my concerns and imposed a new management paradigm on the program that was intended to address those concerns. The publication of the Committee's CCP report language touched off a series of discussions between my office, other members, outside experts and NASA itself in which it became clear that many of the concerns expressed in the report are broadly shared and that there is significant interest in identifying potential solutions to those concerns.

Although I believe the approach outlined in the Committee's report remains the most appropriate way forward for this program, the Committee has engaged NASA to find other potential solutions that will address some of the identified concerns while preventing any disruption in development work pending conference on the fiscal year 2013 appropriations bills. As a result of recent discussions, we have reached some common understandings with NASA regarding how the CCP should be managed and how NASA will respond to the oversight needs of the Congress with respect to the CCP's implementation. I believe these understandings represent a path forward that partially addresses the significant concerns raised in the Committee's report and, while differing from the management and budget plan NASA proposed earlier in the year, still allows the CCP to meet its programmatic goals.

Per our discussions, it is my understanding that NASA now has the following intentions for the CCP:

- The primary objective of the CCP is the achievement of the fastest, safest and most cost-effective means of domestic access to the International Space Station (ISS).
- In the upcoming Commercial Crew Integrated Capability (CCiCAP) phase, NASA plans to award Space Act Agreements (SAAs) to no more than 2.5 program partners (i.e., two full awards and one partial award), with the final number of awards made representing the minimum necessary to ensure the successful achievement of the CCP's primary objective.
- NASA intends to make the upcoming CCiCAP awards the final phase of general development funding for commercial crew contractors. Following these awards, NASA plans to provide commercial crew funding only for FAR-based certification and service contracts.
- NASA plans to define and implement a strategy to award FAR-based contracts in a manner that will minimize substantive delays and programmatic risks as the CCP moves from CCiCAP to the certification phase. NASA also plans to substantively complete this strategy prior to the awarding of SAAs for the CCiCAP phase and to communicate progress in the development of the strategy to the Committee.
- NASA intends to implement protocols to protect taxpayer interests by ensuring that, in the event of a commercial partner's termination from the program due to default or failure to perform, the government will:
 - have access to and use of data and licenses produced by that partner through the CCP;
 - have the "right of first refusal" to purchase real property produced by that partner through the CCP at a price that fully reflects the Federal investment already made in the acquisition or development of that property; and
 - require compliance with statutory and regulatory controls on the export of CCP-funded technology and property produced by that partner or the acquisition of that partner by a foreign-controlled entity.
- NASA intends to collect and evaluate information on potential CCiCAP partners' business viability, management, finances, resources and compliance regime to provide confidence that these partners are capable of meeting their obligations under the program.
- This management plan can be successfully implemented with a potential fiscal year 2013 CCP funding level at or near the Senate level.

If the CCP were to be managed in a manner that is consistent with these intentions, I would not object to the continued implementation of the program this summer. To that end, I request written confirmation from your office that these understandings accurately reflect NASA's CCP intentions and assumptions, as well as advanced notification at any point in the future if NASA intends to propose a substantive change to these understandings.

I expect NASA to provide to the Committee an updated multiyear roadmap for the program that reflects the updates and changes to the management plan embodied in the above understandings. This roadmap should include for each phase of the program the number of expected commercial participants and their estimated financial contribution to the program; the procurement mechanism to be used; and the major performance milestones to be achieved. Recognizing that such a plan would likely be procurement-sensitive in its complete form, a modified, publicly releasable roadmap should also be provided. A clearly defined roadmap for the remainder of this program will be important to addressing some of the concerns identified in the Committee report and for Congressional oversight.

I also expect that NASA will remain open to and cooperative with outside oversight (including any additional oversight requested by the Committee) as we move forward. Above all, I believe it is imperative that the funding provided for this program be focused to ensure that U.S. crew access to the ISS is restored as quickly and safely as possible, while minimizing government exposure in the event of contractor termination or failure.

Thank you, and I look forward to your response.

Sincerely,

Frank R. Wolf
Chairman,
House Subcommittee on Commerce,
Justice, Science and Related Agencies